

5-101 AS USED IN THIS PART, ALL TERMS NOT DEFINED HEREIN SHALL HAVE THE MEANING GIVEN THEM IN THE ACT

"Act" refers to the Air Pollution Control Act, 10 V.S.A. Section 551 et seq., as amended.

"Action Level" means a rate of *emissions* of a *hazardous air contaminant* as specified in Appendix C or as may be determined under Section 5-261(3)(4) of these regulations. *Action Levels* are used to determine the applicability of Section 5-261 to *stationary sources* and shall be derived in accordance with the method prescribed in Appendix E of these regulations.

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"Ambient Air Quality Standards" means any standard which establishes the largest allowable concentration of a specific *air contaminant* in the *ambient air space* as specified in Subchapter III of these regulations.

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~~"Hazard Limiting Value (HLV)" means the highest acceptable concentration in the ambient air of a hazardous air contaminant as specified in Appendix C or as may be determined under Section 5-261(4) of these regulations. All HLV's shall be derived in accordance with the method prescribed in Appendix D of these regulations.~~

"Hazardous Ambient Air Standard (HAAS)" means the highest acceptable concentration in the *ambient air* of a *hazardous air contaminant* as specified in Appendix C or as may be determined under Section 5-261(6)(7) of these regulations. All HAAS's shall be derived in accordance with the methods prescribed in Appendix D of these regulations.

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"Stationary Source Hazardous Air Impact Standard" means a concentration in the *ambient air* of a *hazardous air contaminant* attributable to the air quality impacts of a *stationary source*, in conjunction with the air quality impacts from other *stationary sources* as determined in accordance with the Agency's air quality impact evaluation guidelines (revised November 20, 1992). *Stationary source hazardous impact standards* are specified in Appendix C or may be determined under Section 5-261(6)(7) of these regulations.

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5-253.16 Wood Furniture Manufacturing

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(c) Standards

- (1) **VOC Emission Limitations.** Each owner or operator of a *stationary source* subject to this subsection which has allowable emissions of 25 tons per year or more of *VOC* shall limit *VOC* emissions from *wood furniture manufacturing operations* by:
- (i) Using only *topcoats* containing no more than 1.8 lbs *VOC/lb solids, as applied*, and *sealers* containing no more than 1.9 lbs *VOC/lb solids, as applied*, or the equivalent. Compliance shall be demonstrated by any of the compliance methods in (e)(1);
 - (ii) Using acid-cured alkyd amino vinyl *sealers* containing no more than 2.3 lbs *VOC/lb solids, as applied*, and acid-cured alkyd amino conversion varnish *topcoats* containing no more than 2.0 lbs *VOC/lb solids, as applied*, or the equivalent. Compliance shall be demonstrated by any of the compliance methods in (e)(1); and
 - (iii) Using only *strippable spray booth coatings* containing no more than 0.8 lbs *VOC/lb solids, as applied*.
- (2) **VHAP Emission Limitations for Existing Sources.** Each owner or operator of a *stationary source* subject to this subsection which is located at a major source of *HAPs* and which began operations before December 6, 1994 shall:
- (i) Use only *stains, washcoats, sealers, topcoats, basecoats* and *enamels* with *VHAP* contents of no more than 1.0 lbs *VHAP/lb solids, as applied*; *thinners* for *stains, sealers* and *topcoats* that contain no more than 10% *VHAP* by weight; and *thinners* for *washcoats, basecoats* and *enamels* that contain no more than 3% *VHAP* by weight; or the equivalent. Compliance shall be demonstrated by any of the compliance methods in (e)(2). The formaldehyde content of a *finishing material* shall be calculated as the amount of free formaldehyde present in the *finishing material* when it is applied. The styrene content of a *finishing material* shall be based on an estimate of the unreacted styrene, which shall be calculated by multiplying the amount of styrene monomer in the *finishing material* when it is applied by a factor of 0.16;
 - (ii) Limit *VHAP* emissions from *contact adhesives* by achieving a *VHAP* limit for *contact adhesives* based on the following criteria:
 - (A) For *foam adhesives (contact adhesives used for upholstery operations)* used in products that meet the upholstered seating flammability requirements of California Technical Bulletin 116, 117, or 133, the Business and Institutional Furniture Manufacturers

Association's (BIFMA's) X5.7, UFAC flammability testing, or any similar requirements from local, State, or Federal fire regulatory agencies, the *VHAP* content of the *adhesive* shall not exceed 1.8 lb *VHAP/lb solids, as applied*; or

- (B) For all other *contact adhesives* (including *foam adhesives* used in products that do not meet the standards presented in (c)(2)(ii)(A), but excluding *aerosol adhesives* and excluding *contact adhesives* applied to *nonporous substrates*, the *VHAP* content of the *adhesive* shall not exceed 1.0 lb *VHAP/lb solids, as applied*, or the equivalent. Compliance shall be demonstrated by either of the methods in (e)(3).

- (iii) Use only *strippable spray booth coatings* that contain no more than 0.8 lb *VOC/lb solids, as applied*.

- (3) **VHAP Emission Limitations for New Sources.** Each owner or operator of a *stationary source* subject to this subsection which is located at a major source of *HAPs* and which began operations on or after December 6, 1994 shall:

- (i) Use only *stains* with a *VHAP* content of no more than 1.0 lbs *VHAP/lb solids, as applied*; *washcoats, sealers, topcoats, basecoats* and *enamels* with a *VHAP* content of no more than 0.8 lbs *VHAP/lb solids, as applied*; *thinners* for *stains, sealers* and *topcoats* that contain no more than 10% *VHAP* by weight; and *thinners* for *washcoats, basecoats* and *enamels* that contain no more than 3% *VHAP* by weight; or the equivalent. Compliance shall be demonstrated by any of the methods in (e)(2). The formaldehyde content of a *finishing material* shall be calculated as the amount of free formaldehyde present in the *finishing material* when it is applied. The styrene content of a *finishing material* shall be based on an estimate of the unreacted styrene, which shall be calculated by multiplying the amount of styrene monomer in the *finishing material* when it is applied by a factor of 0.16;

- (ii) Limit *VHAP* emissions from *contact adhesives* by achieving a *VHAP* limit for *contact adhesives*, excluding *aerosol adhesives* and excluding *contact adhesives* applied to *nonporous substrates*, of no more than 0.2 lb *VHAP/lb solids, as applied*, or the equivalent. Compliance shall be demonstrated by either of the methods in (e)(3); and

- (iii) Use only *strippable spray booth coatings* that contain no more than 0.8 lb *VOC/lb solids, as applied*.

(4) **Control of Emissions of Individual Hazardous Air Contaminants.** Each owner or operator of a *stationary source* subject to this subsection shall comply with Section 5-261 of this chapter with regards to volatile hazardous air contaminants as provided below:

(i) With regard to any volatile hazardous air contaminant whose emission rate from the entire *stationary source* is found to exceed its Action Level, the owner or operator shall achieve
, as provided in subsection ~~(3)~~(2) of Section 5-261;
and

(ii) The owner or operator shall be subject to the requirements of subsections (3), (4), and (5) ~~and (6)~~ of Section 5-261, where applicable, except that said requirements shall not apply to any emissions of volatile hazardous air contaminants caused by the use of water based *coatings* or *coatings* cured by means of ultraviolet radiation provided that the owner or operator complies with the standards established in paragraphs (c)(1), (2) and (3) of this subsection.

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5-261 CONTROL OF HAZARDOUS AIR CONTAMINANTS

(1) Applicability

(a) No *person* shall discharge, or cause or allow the discharge of, *emissions* of any *hazardous air contaminant*, except in conformity with the provisions of this section. Any *stationary source* whose actual *emission* rate of a contaminant is below the *Action Level* for such contaminant specified in Appendix C of these regulations shall not be subject to this section for that contaminant. In the case of a *stationary source* with multiple *process units*, the *actual emissions* of a contaminant from the entire *stationary source* shall be compared to the appropriate *Action Level* to determine the applicability of this section. If the increase in *emissions* from a *modification* of such a *stationary source*, in conjunction with all other *emissions* from the source, would result in an exceedance of an *Action Level*, the *modification* shall be subject to this section.

(b) The 2007 amendments to Appendix C of these regulations shall take effect 15 days after adoption is complete, unless a *stationary source* operating in conformity with the provisions of this section and Appendix C in effect prior to the 2007 amendments requests an extension by providing the *Secretary* with an alternative timetable and compelling justifications for such timetable and the request for the extension is approved by the *Secretary*.

(c) The following categories of *air contaminant* sources or sources engaged in the following activities are exempt from the requirements of Section 5-261:

(i) Operations conducted for the purpose of spraying or applying agricultural herbicides, pesticides, insecticides, or other agricultural chemicals under a program approved by the Vermont Department of Agriculture; and

(ii) Solid *fuel burning equipment* (not including *incinerators*) installed or constructed prior to January 1, 1993, and all *fuel burning equipment* which combusts virgin liquid or gaseous *fuel*.

~~(2) Notification of Hazardous Air Contaminant Emissions~~

~~On or before December 31, 1993, the owner or operator of any stationary source which emits any air contaminant listed in Appendix C, Category I of this chapter shall submit to the Air Pollution Control Officer an inventory listing the identity and quantity of all such contaminants emitted by said source during calendar year 1992 or during another period considered more representative of the source's emissions. Calculation of such hazardous air contaminant emissions shall be consistent with the procedures specified in Section 5-808 of this chapter.~~

~~(3)~~(2) *Hazardous Most Stringent Emission Rate*

For each *hazardous air contaminant* listed in Appendix B herein and emitted by a *stationary source*, the source shall apply control technology, production processes or other techniques adequate to achieve the *hazardous most stringent emission rate (HMSEER)*. Once the *Secretary* has determined *HMSEER* for a *stationary source* and this determination has been included in an order or agreement entered into or issued under the authority of the *Act*, 3 VSA Section 2822 or other State statutes, said determination shall remain in effect for five years, unless the source is modified or *reconstructed* during said five years. At the end of said five years, the determination shall expire unless the source demonstrates to the *Secretary* that such *emission rate* still represents *HMSEER*.

~~(4)~~(3) *Air Quality Impact Evaluation*

The *Secretary* may require any person subject to this section to submit to him or her an *air quality impact evaluation* which shall demonstrate whether the *actual emissions* from the source, in conjunction with *emissions* from all other sources, will or will not cause or contribute to *ambient air* concentrations in excess of any *Hazardous Ambient Air Standard* as set forth in Appendix C of these regulations. Said evaluation shall be performed in accordance with the *Agency's air quality impact evaluation guidelines* (revised November 20, 1992) and shall include an analysis of *ambient air* monitoring data for each contaminant evaluated, if reliable and representative data exists. In

determining whether such an impact evaluation is warranted, the Secretary shall take into consideration the following factors:

- (a) The degree of toxicity of the *air contaminant* and the *emission rate*;
- (b) The proximity of the source to residences, population centers and other sensitive human receptors; and
- (c) *Emission* dispersion characteristics at or near the source, taking into account the physical location of the source relative to surrounding buildings and terrain.

~~(5)~~(4) *Hazardous Ambient Air Standards*

No person shall discharge, or cause or allow the discharge of, any *hazardous air contaminants* from a *stationary source* which cause or contribute to *ambient air* concentrations in excess of any *Hazardous Ambient Air Standard*.

~~(6)~~(5) Special Procedures for Contaminants In Appendix C, Category I

- (a) Notwithstanding any other provisions of Section 5-261, beginning January 1, 1993, no person shall discharge, or cause or allow the discharge of, any Appendix C, Category I contaminants from a *stationary source* which would exceed any *stationary source hazardous air impact standard*. ~~During the time period that subsection (6) is in effect, said~~ Emissions subject to this subsection shall not be subject to the requirements of subsections (4) or (5) (3) or (4) of this section.
- (b) The Secretary may require the owner or operator of a *stationary source* subject to this section with respect to *emissions* of any Appendix C, Category I contaminant to submit to the Secretary an *air quality impact evaluation* which shall demonstrate whether the *actual emissions* from the subject source will violate subsection ~~(6)~~(5)(a) of this section. Said evaluation shall be performed in accordance with the *Agency's air quality impact evaluation guidelines* (revised November 20, 1992).
- (c) If the Secretary determines, through air quality monitoring, that the annual concentration of a contaminant listed in Appendix C, Category I has exceeded its hazardous ambient air standard, the Secretary shall adopt a Toxic Action Plan (TAP) for the contaminant. Each TAP shall contain a strategy to reduce ambient air concentrations of the contaminant. The Secretary may also adopt TAPs for other hazardous air contaminants.
- ~~(c) As expeditiously as practicable, but no later than January 1, 1998, the Secretary shall review each Hazardous Ambient Air Standard for the contaminants listed in Appendix C, Category I and the method for their derivation specified in Appendix D to assure that each such standard represents a~~

~~level requisite to protect the public health. Upon completion of each such review, and after a reasonable time for interested persons to submit comments thereon, the Secretary shall revise by rule each standard or method of derivation as he or she deems appropriate. Upon revision of a standard, subsection (6) of this section shall expire and shall be of no further effect with respect to the revised standard.~~

~~(7)~~(6) Interim Standards Unlisted Contaminants

- (a) If any *stationary source* emits or proposes to emit a *hazardous air contaminant* which is not listed in Appendix B of these regulations, the Secretary shall determine an interim Hazardous Ambient Air Standard or interim Stationary Source Hazardous Air Impact Standard, if appropriate and an interim Action Level for said contaminant, provided that sufficient health data are available. In that event, such source shall be subject to all requirements of this section in the same manner as if said contaminant were listed in Appendices B and C herein. Such interim standards shall remain in effect until revised by rulemaking or adjusted in accordance with this subsection.
- (b) If additional scientific data becomes available that warrants adjusting a standard, including default values, for a chemical or compound listed in Appendices B and C herein, the data along with the underlying studies may be submitted to the Secretary for review. After evaluating such information in consultation with the Department of Health, the Secretary may on a case-by-case basis adjust the standard or maintain the existing standard for the chemical or compound. If the Secretary adjusts the standard, the interim standard shall remain in effect until revised by rulemaking or adjusted in accordance with this subsection.
- (c) Prior to making a determination under (a) or (b) of this subsection, the Secretary may provide an opportunity for public participation in such manner as determined in the discretion of the Secretary, including public notification on the Agency's website.

~~(8)~~ Notice of Variance Application

~~If a stationary source requests a variance under 10 VSA Section 561 from any of the requirements of this section, the source shall notify in writing the following persons at the time of application for the variance:~~

- ~~(a) the Secretary;~~
- ~~(b) all abutting property owners;~~

- ~~(c) the selectmen of the town in which the source is located, and of adjacent towns if the property line of the source abuts other towns;~~
- ~~(d) the selectmen of any other towns which will be significantly impacted by emissions from the source;~~
- ~~(e) the regional planning commission for the region in which the source is located;~~
- ~~(f) any person who has requested to be notified and other appropriate persons identified by the Secretary.~~

~~The source shall also publish notice of its variance application in a newspaper of general circulation in the region in which the source is located. Said notice shall be published no later than seven (7) days after filing of the variance application with the Air Quality Variance Board.~~

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Subchapter VIII. Registration of Air Contaminant Sources

5-801 DEFINITIONS

"Source" means, for the purposes of this Subchapter only, all stationary structures, facilities, equipment, installations, or operations which emit or may emit any *air contaminant* and which are:

- (a) Operated by the same *person* or by *persons* under common control, and
- (b) Located on one or more contiguous or adjacent properties where all such property is owned by the same *person* or by *persons* under common control.

(Note that the *person* or *persons* operating the *source* will not necessarily be the same *person* or *persons* who own the property upon which the *source* is located.)

"Operator" means, for purposes of this Subchapter only, any *person* operating or responsible for the operation of a *source*.

5-802 REQUIREMENT OF REGISTRATION

Each *operator* of a *source* which emits more than five *tons* of any and all *air contaminants* per year shall register the *source* with the *Secretary*, and shall renew such registration annually. Each day of operating a *source* which is subject to registration without a valid, current registration shall constitute a separate violation and subject the operator to a civil penalty not to exceed \$100.00 per violation.

5-803 REGISTRATION PROCEDURE

- (1) On or before February 1 of each year, the *operator* of each *source* subject to registration shall submit to the *Air Pollution Control Officer* *source emissions* data and any other information required to determine the appropriate registration fee. This data shall be

supplied by completion of forms which are available from the *Air Pollution Control Officer*. The forms will not be deemed completed unless and until all information required by the forms has been supplied. The *Air Pollution Control Officer* may require such information to be submitted with respect to any *source* which he or she has reason to believe may be a *source* subject to registration. This subsection is not intended to limit any powers otherwise held by the *Air Pollution Control Officer*.

- (2) The *Air Pollution Control Officer* shall determine the registration fee based upon the information required by the preceding subsection, upon other information reasonably required by him or her, and any other relevant information. Upon such determination, the *Air Pollution Control Officer* shall promptly notify each *operator* in writing of the registration fee required, if any.
- (3) Any *operator* may request reconsideration of a fee determination within 30 calendar days of receiving notice of such determination. Such request shall be in writing addressed to the *Air Pollution Control Officer* and shall include the operator's own calculation of the fee due along with all supporting documentation. Within 20 calendar days of receipt of such timely written request, the *Air Pollution Control Officer* shall notify the *operator* of the decision.
- (4) Any *operator* who chooses to contest the decision of the *Air Pollution Control Officer* described in the preceding subsection may, within 15 calendar days after receipt of such decision, request an administrative conference of the Commissioner of Environmental Conservation. Said conference shall be held as soon as reasonably possible, shall be informal in nature and shall serve as an opportunity for the operator to contest the decision of the *Air Pollution Control Officer* to the Commissioner by presenting *emissions* data and any other relevant information to the Commissioner or his or her representative. Such administrative conference shall not be considered a "contested case" as defined by 3 VSA Ch. 25. The Commissioner shall notify the *operator* of the decision within 30 days of the administrative conference. Should the Commissioner's decision be wholly or partially adverse to the *operator*, such notice shall include an explanation of the grounds for the decision.
- (5) Each *operator* from whom a registration fee is due shall pay said fee to the *Air Pollution Control Officer* on or before May 15 of each year. Payment shall be by check or money order made payable to the state of Vermont. If the amount of the fee is at that time the subject of an administrative appeal or judicial review, the fee amount most recently decided or determined by the *Air Pollution Control Officer* or Commissioner of Environmental Conservation is due. No registration will be issued for those *sources* for which a required registration fee has not been paid in full. If, however, at the conclusion of any and all administrative appeals and judicial review, the fee paid is greater than that which has been determined to be correct, the difference shall be promptly refunded to the operator.

- (6) The period of each registration or renewal shall be from the first day of July of each year through the last day of June of the following calendar year.

5-804 FALSE OR MISLEADING INFORMATION

All data and other information submitted or caused to be submitted by an *operator* to the *Agency* shall be complete and truthful. Any such submission which is false or misleading shall be sufficient grounds for the denial or revocation of registration, and may result in a fine and/or imprisonment under the authority of the applicable Vermont statutes.

5-805 COMMENCEMENT OR RECOMMENCEMENT OF OPERATION

A *source* otherwise subject to registration is not required to register for the next period of registration unless it emitted more than five *tons* of *air contaminants* during the calendar year immediately preceding said next period of registration.

5-806 TRANSFER OF OPERATION

Should the operation or responsibility for operation of a *source* subject to registration be transferred, the registration will, nonetheless, remain valid until the end of the then-current registration period.

5-807 FEES

- (1) The registration fee shall be determined in accordance with the fee schedule set forth in 3 V.S.A. § 2822.
- (2) With respect to the fees for the emission of hazardous air contaminants, the 2007 amendments to Appendix C of these regulations shall not take effect until January 1, 2008.

5-808 DETERMINATION OF FEE

- (1) Each *operator* shall determine the registration fee, if any, based on calculation of the quantity of *air contaminants* emitted by his or her *source* during the calendar year immediately preceding the period of registration.
- (2) The following techniques, or combinations thereof, are acceptable methods of measuring and calculating *source emissions*. The *Air Pollution Control Officer* will determine which method(s) is (are) most appropriate for each *source*. As applied to most *sources*, the methods listed below are in order of preference, the first listed method being deemed the most reliable and accurate:
 - (a) *Emission testing (stack testing) of source;*
 - (b) *Emission testing of similar sources;*
 - (c) *Mass balance calculations, where appropriate;*

- (d) Use of *emission* factors published by the U.S. Environmental Protection Agency in its Compilation of Air Pollutant Emission Factors (AP-42);
 - (e) Other methods receiving the prior written approval of the *Air Pollution Control Officer*.
- (3) *Emissions* of all *air contaminants* from a *source*, either through *stacks* or from points other than *stacks* (i.e., fugitive *emissions*) shall be added together for purposes of determining the registration fee. Fugitive *emissions* shall be included only when, in the judgment of the *Air Pollution Control Officer*, such *emissions* are reasonably *quantifiable*.